IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12796 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SALIM - MOHMAD ALLA - BELLI KUNJADA

Versus

DISTRICT MAGISTRATE

Appearance:

MS DR KACHHAVAH for Petitioner

MR SAMIR J DAVE for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/01/2001

ORAL JUDGEMENT

#. The petitioner Salim Mohmad Alla Belli Kunjada has been detained under PASA by the order dated 13th September, 2000 of the respondent No.1.

#. Challenging this order, the learned counsel for the

petitioner raised manifold contentions but as this petition deserves to be allowed only on one ground all other contentions raised need not to be referred, discussed and decided.

#. In this petition, reply to the special civil application has not been filed by the respondents. So the averments made in special civil application stand uncontroverted. In para-15 it is averred that the petitioner is not supplied with the statements of Mr.G.N. Chavda, P.I. and Mr. Lakhiram Chetram in respect of C.R. No.81/2000 and of Mr. G.N. Chavda and Mr. B.M. Rathwa P.S.I. in respect of C.R. No.154/2000 though demanded by way of representation sent to the detaining authority dated 6th November, 2000. This factual averment has not been controverted and as such, it has to be taken to be correct. This contention otherwise also is not seriously disputed by the counsel for the respondents. In this case, copy of the statements of witnesses recorded in two C.Rs. were not given to the petitioner by the respondents and he has been deprived of his right to make effective representation which has been conferred upon him under Article 22(5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 13-9-2000 is quashed and set aside. The petitioner, Salim -Mohamad Alla-Belli Kunjada, detenue at present in Baroda Central Jail, Baroda, be set free forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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zgs/-